

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

## **UNITED STATES' RESPONSE TO COURT'S ORAL ORDER**

THE UNITED STATES OF AMERICA hereby responds to the Court's Order directing the United States to explain its reason for filing an amended information which removed the count alleging a violation of 50 U.S.C. § 797. ECF No. 10.

Defendant was arrested on April 26, 2025, and charged with one count of illegal entry contrary to 8 U.S.C. § 1325(a) and one count of violation of a defense property security regulation contrary to 50 U.S.C. § 797. The Complaint alleged that Defendant unlawfully crossed into the United States approximately four miles east of the Santa Teresa, New Mexico Port of Entry. ECF No. 1. The Complaint further alleged that prior to Defendant's crossing, the Department of the Interior had transferred an approximately 60-foot strip of land along the United States/Mexico international border to the jurisdiction of the Department of the Army. This tract of land, referred to as the "Roosevelt Reservation" was then assigned to the United States Army Garrison Fort Huachuca, which designated it as a controlled and restricted National Defense Area (NM NDA).

On May 5, 2025, the United States filed an information, consistent with the Complaint,

charging Defendant with one count of illegal entry and one count of violation of a defense property security regulation. ECF No. 5.

On or about May 15, 2025, the United States Attorneys Office learned from the United States Border Patrol that portions of the international border previously understood as encompassed by the NM NDA were not, in fact, transferred to the jurisdiction of the Department of the Army. Agents with the United States Border Patrol began reviewing previously filed complaints to identify cases in which there was insufficient evidence to conclude that the defendant crossed through the NM NDA. Once those defendants were identified, the United States filed amended informations removing the Title 50 charges.<sup>1</sup> Defendant Luna-Martinez was identified as one of these defendants.

Based on the foregoing, the United States filed the amended information in this case electing to proceed only on the 8 U.S.C. 1325(a) count due to insufficient evidence to proceed on the 50 U.S.C. § 797 count.

Respectfully submitted,

RYAN ELLISON  
United States Attorney



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<sup>1</sup> In cases in which informations had not been filed, the United States likewise moved to dismiss those counts.

I hereby certify that a true copy of the foregoing pleading was mailed/delivered to opposing counsel of record and to the United States Probation Office.

/s/

**Filed electronically by**  
RYAN ELLISON